

COPIES OF FLIP CHART PAGES FROM JUNE 13, 2001 LIABILITY AND RISK MANAGEMENT WORK GROUP MEETING

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Base Line

- Order 888
- RMS (*WSCC Reliability Management System*)
- WECC (*Western Electricity Coordination Council – successor to WSCC*)

Issues

- Ability of RTO to set standards
- Are applicable standards voluntary or mandatory?
- Goal – to make it harder for people to sue or to minimize risk of activities likely to result in suit?

- Preventive v. remedial -

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RTO West's Functions

1. Distributes FTRs, RTRs, NRTs
 - Runs auction
2. Ancillary services
 - Provider of last resort
 - Sets standards and reserve requirements
3. Determines ATC, OTC, TTC [*Available Transfer Capability; Operating Transfer Capability; Total Transfer Capability*]
4. Administers Tariff
 - Curtails schedules
 - Designs and runs FDF [*Flow Distribution Factor*] program

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5. Issues dispatch instructions
6. Provides services necessary to fulfill Pre-Existing Obligations
7. Reviews and implements schedules
8. Security coordination [*performs directly or contracts for performance*]
9. Operates control area (seams)
10. Planning function
11. Manages congestion

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RTO West's Functions (continued)

12. Schedules maintenance outages
13. Monitors markets
14. Billing and settlement
15. Jointly develops, with PTOs, maintenance performance plans

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Things RTO West Does NOT Do:

- Perform maintenance
- Operate (directly) breakers or switches
- Load forecasting (planning) at the distribution company level
- Buy in forward markets to meet load forecasts beyond _____ [days? months?] into the future
- Own towers or wires
- Expand or diminish rights to retail open access

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Things We Do Not Know If RTO West Will Do:

- Generator Interconnection
- Least-cost planning
- Generator maintenance scheduling in non-emergency situations

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Reasons to Think Liability Exposure Could Increase with RTO West:

1. More unstable to rely on markets to timely provide resources
2. Mandatory system of operating standards and accompanying determinations of “violations” prove plaintiffs’ cases
3. Joint enterprise with no-asset partner
4. Centralized decision-making [*potential scope and magnitude of consequences resulting from bad decisions is increased even if probability of bad decisions is not*]
5. Shared maintenance responsibilities
6. No sovereign immunity
7. State tariff protections become unavailable
8. WECC Bylaws Section 15.1 {NOTE – Section 10.3 of the RTO West Transmission Operating Agreement requires RTO West to become a member of WECC and similar organizations} - *See Attachment A to these notes*

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Types of Potential CLAIMS

- Negligent
 - Design, planning
 - Operation
 - Dispatch
 - Maintenance
- Contact claims
- Environmental
- Labor/workers' compensation

Types of Potential DAMAGES

- Property Damage
- Bodily injury
- Service Interruption
- Consequential
- Punitive

Types of Potential CLAIMANTS

- Tariff Customers
- End Users
- Remote Systems
- Citizens [*unrelated third parties, such as the case of a contact claim*]

ATTACHMENT A

TEXT OF SECTION 15.1 OF WECC Bylaws:

15.1 Limitation on Liability.

It is the express intent, understanding and agreement of the Members that the remedies for nonperformance expressly included in Section 4.8 [*providing for suspension or termination of membership*] hereof shall be the sole and exclusive remedies available hereunder for any nonperformance of obligations under these Bylaws. Subject to any applicable state or federal law which may specifically limit a Member's ability to limit its liability, no Member, its directors, members of its governing bodies, officers or employees shall be liable to any other Member or Members for any loss or damage to property, loss of earnings or revenues, personal injury, or any other direct, indirect, or consequential damages or injury which may occur or result from the performance or nonperformance of these Bylaws, including any negligence arising hereunder.

TEXT OF SECTION 10.3 OF RTO WEST TOA:

10.3 Regional and Inter-Regional Transmission Coordination. RTO West shall become a member of appropriate regional and inter-regional transmission reliability forums, committees and work groups applicable to the geographic areas served by the RTO West Transmission System. Subject to Section 21, RTO West shall submit RTO West Transmission System data as required by such forums, committees and work groups, including, but not limited, to power flow and stability data and studies, FERC 715 filing requirements, data needed for transmission planning studies and reports concerning significant RTO West Transmission System expansion plans.